

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KIMBERLY C. CUTONE and  
ANTHONY CUTONE

Plaintiffs,

v.

ELI LILLY AND COMPANY, *et al.*,

Defendants.

CIVIL ACTION No. 1:04-CV-12725 RCL

**STIPULATION OF DISMISSAL WITH PREJUDICE AS TO  
DEFENDANT BRISTOL-MYERS SQUIBB COMPANY**

Pursuant to Fed. R. Civ. P. 41 (a) (1), through their counsel, the Plaintiffs and the Defendant Bristol-Myers Squibb Company hereby stipulate to the dismissal of this case with prejudice as it relates solely to Bristol-Myers Squibb Company, without any right of appeal, with the Plaintiffs and Bristol-Myers Squibb Company each bearing their own costs and fees.

A Praeceptum of Dismissal with Prejudice, signed by out-of-state counsel for the Plaintiffs and Bristol-Myers Squibb Company, is attached hereto as Exhibit 1.

Respectfully Submitted,  
KIMBERLY C. CUTONE and  
ANTHONY CUTONE

Respectfully Submitted,  
BRISTOL-MYERS SQUIBB COMPANY

/s/ Sheila Mone  
Sheila Mone, BBO # 634615  
KENNETH M. LEVINE & ASSOCIATES  
370 Washington Street  
Brookline, MA 02445  
(617) 566-2700

/s/ Mark E. Swirbalus  
Mark E. Swirbalus, BBO # 631650  
DAY, BERRY & HOWARD LLP  
260 Franklin Street  
Boston, MA 02110  
(617) 345-4600

Dated : March 30, 2005

**CERTIFICATE OF SERVICE**

I, Mark E. Swirbalus hereby certify that on this 30th day of March, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to all counsel of record.

/s/ Mark E. Swirbalus  
Mark E. Swirbalus

# EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KIMBERLY C. CUTONE and  
ANTHONY CUTONE

Plaintiffs

v.

Civil Action No.: 1:04-CV-12725 (RCL)

ELI LILLY AND COMPANY, et al.

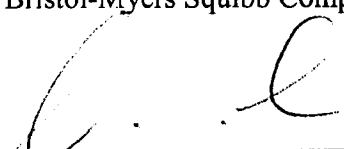
Defendants


\* \* \* \* \*

**PRAECIPE OF DISMISSAL WITH PREJUDICE**

Mr. Clerk:

Please be advised that the Plaintiffs in the above-captioned case, acting through their counsel, Aaron M. Levine & Associates, P.A., and Defendant, Bristol-Myers Squibb Company, acting through its attorneys, Sidney G. Leech and Goodell, DeVries, Leech & Dann, LLP, have reached a settlement in the above-captioned case. These parties agree to the dismissal "With Prejudice" of the above-captioned case as to the Defendant, Bristol-Myers Squibb Company, only.

  
\_\_\_\_\_  
Aaron M. Levine  
Aaron M. Levine & Associates  
1320 19<sup>th</sup> Street, N.W., Suite 500  
Washington, D.C. 20036  
(202) 833-0202  
*Attorneys for Plaintiff*

  
\_\_\_\_\_  
Sidney G. Leech  
Malcolm S. Brisker  
Goodell, DeVries, Leech & Dann, LLP  
One South Street, 20<sup>th</sup> Floor  
Baltimore, Maryland 21202  
(410) 783-4000  
*Attorneys for Defendant,  
Bristol-Myers Squibb Company*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18<sup>th</sup> day of March, 2005, a copy of a Praecept of Dismissal With Prejudice regarding Defendant Bristol-Myers Squibb Company's was mailed via first class mail, postage-prepaid to:

Aaron M. Levine & Associates  
1320 19th Street, NW - Suite 500  
Washington, DC 20036; *Attorneys for Plaintiff*

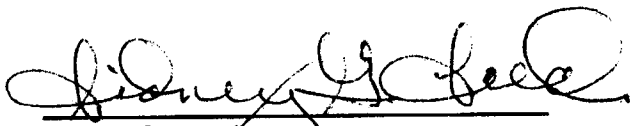
James J. Dillon, Esquire  
Brian L. Henninger, Esquire  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210; *Attorneys for Eli Lilly and Company*

John F. Anderson, Esquire  
Troutman Sanders, LLP  
1660 International Drive  
Suite 600, Tysons Corner  
McLean, VA 22102; *Attorneys for Dart Industries, Inc.*

Julie M. Wade, Esquire  
Goodwin Proctor, LLP  
Exchange Place  
Boston, Massachusetts 02109; *Attorneys for Premo Pharmaceutical Laboratories, Inc.*

Marc C. Laredo, Esquire  
Laredo & Smith, LLP  
15 Broad Street  
Suite 600  
Boston, Massachusetts 02109; *Attorneys for Pharmacia and Upjohn Company*

Janice W. Howe, Esquire  
Mary B. Murrane, Esquire  
Bingham McCutcheon, LLP  
150 Federal Street  
Boston, Massachusetts; *Attorneys for Wyeth, Inc.*

  
\_\_\_\_\_  
Sidney G. Leech